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5 Attorneys for Defendant
6 SYNGENTA CROP PROTECTION, INC.

7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 (SAN JOSE DIVISION)

11
12 VALENT U.S.A. CORPORATION AND
13 SUMITOMO CHEMICAL CO., LTD.,

14 Plaintiffs,

15 v.

16 SYNGENTA CROP PROTECTION, INC.,

17 Defendant.

CASE NO. 08-cv-0720 RS

**DECLARATION OF ERIK R. PUKNYS
IN SUPPORT OF SYNGENTA'S
MOTION TO DISMISS PLAINTIFFS'
COMPLAINT**

Hearing Date: April 18, 2008
Hearing Time: 9:00 am

DECLARATION OF ERIK R. PUKNYS

I, Erik R. Puknys, declare as follows:

1. I am an attorney admitted to practice in the State of California and the United States District Court for the Northern District of California, and a member of the law firm of Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, attorneys of record for Defendant Syngenta Crop Protection, Inc. in the above-identified matter. The matters referred to in this declaration are based on my personal knowledge and if called as a witness I could, and would, testify competently thereto.

2. Attached as Exhibit 1 is a true and correct copy of a correspondence from Nobuyuki Shinkai to Jonathan D. Sullivan dated March 30, 2007.

3. Attached as Exhibit 2 is a true and correct copy of a correspondence from Jonathan D. Sullivan to Nobuyuki Shinkai dated April 2, 2007.

4. Attached as Exhibit 3 is a true and correct copy of a correspondence from Jonathan D. Sullivan to Gerhart Marchand dated April 2, 2007.

5. Attached as Exhibit 4 is a true and correct copy of a news release obtained from the website www.bayercropscience.com on March 11, 2008.

6. Attached as Exhibit 5 is a true and correct copy of a portion of Bayer Corporation's Form 20-F report filed with the U.S. Securities and Exchange Commission on March 15, 2007.

7. Attached as Exhibit 6 is a true and correct copy of a correspondence from Nobuyuki Shinkai to Jonathan D. Sullivan dated April 23, 2007.

8. Attached as Exhibit 7 is a true and correct copy of a news release obtained from the website www.sumitomo-chem.co.jp/english/ on March 11, 2008.

9. Attached as Exhibit 8 is a true and correct copy of a correspondence from Nobuyuki Shinkai to Robert Durand dated May 30, 2007.

10. Attached as Exhibit 9 is a true and correct copy of an e-mail from Nobuyuki Shinkai to Robert Durand dated July 6, 2007.

1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct.

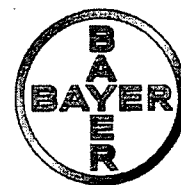
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4 Dated: March 14, 2008

By: _____/s/

5 Erik R. Puknys
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EXHIBIT 4

Bayer CropScience



Bayer CropScience AG
Corporate Communications
Alfred-Nobel-Str. 50
40789 Monheim

Germany

News release

Clothianidin included in EU positive list

Positive decision to include active ingredient in Annex I of European Directive on marketing authorization for plant protection products

Monheim – The EU's Standing Committee on the Food Chain and Animal Health (SCFA), comprising representatives of government bodies and ministries in all the countries of the European Union, has approved the inclusion of the active ingredient clothianidin in the positive list (Annex 1) of Council Directive 91/414/EEC which is valid throughout the European Union. This Directive states that active ingredients may only be used in plant protection products if they comply with the strict safety requirements stipulated in the Directive.

Clothianidin was developed jointly with Sumitomo Chemical Takeda Agro Company and is one of Bayer CropScience's most promising active ingredients for insecticidal seed treatment. This is one of the most targeted ways of protecting crops since contact between the active ingredient and the environment can be reduced to a minimum. The active ingredient clothianidin is distributed by Bayer CropScience in corn under the brand name Poncho®.

Its ease of use and reliable action are generating growing demand among farmers for this technology. Poncho® is a state-of-the-art insecticide with fast, reliable activity against a broad spectrum of early-season pests that can attack both seed and young plants. It particularly targets wireworm and cutworm in corn and is also effective in controlling harmful insects in oilseed rape, cereals and sugar beet.

Poncho® received its first marketing authorizations as a seed dressing for corn starting in 2003 in the USA, Canada, Argentina, Hungaria, Germany and Austria.

- 2 -

Bayer CropScience, a subsidiary of Bayer AG with annual sales of about EUR 6 billion, is one of the world's leading innovative crop science companies in the areas of crop protection, non-agricultural pest control, seeds and plant biotechnology. The company offers an outstanding range of products and extensive service backup for modern, sustainable agriculture and for non-agricultural applications. Bayer CropScience has a global workforce of about 19,000 and is represented in more than 120 countries. This and further news is available at:

www.newsroom.bayercropscience.com

Monheim, February 10, 2006
kgs (2006-0042)

Contact:

Utz Klages, Tel.: +49 (0) 21 73/38-31 25

E-mail: utz.klages@bayercropscience.com

www.bayercropscience.com

Forward-Looking Statements

This news release contains forward-looking statements based on current assumptions and forecasts made by Bayer CropScience AG management. Various known and unknown risks, uncertainties and other factors could lead to material differences between the actual future consolidated results, financial situation, development or performance of our parent company, Bayer AG, and the estimates given here. These factors include those discussed in Bayer AG's public reports filed with the Frankfurt Stock Exchange and with the U.S. Securities and Exchange Commission (including Bayer AG's Form 20-F). Neither Bayer AG nor Bayer CropScience AG assumes any liability whatsoever to update these forward-looking statements or to conform them to future events or developments.

EXHIBIT 5

As filed with the Securities and Exchange Commission on March 15, 2007

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 20-F

(Mark One)

- ☐ REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR 12(g) OF THE SECURITIES EXCHANGE ACT OF 1934
OR
☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2006.
OR
☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
OR
☐ SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
Date of event requiring this shell company report...

For the transition period from _____ to _____

Commission file number 001-16829

BAYER AKTIENGESELLSCHAFT
(Exact name of Registrant as specified in its charter)

BAYER CORPORATION*
(Translation of Registrant's name into English)

Federal Republic of Germany
(Jurisdiction of incorporation or organization)

Bayerwerk, Gebäude W11
Kaiser-Wilhelm-Allee
51368 Leverkusen, GERMANY
(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act.

Title of Each Class:Name of Each Exchange on Which Registered:

American Depositary Shares representing Bayer AG
ordinary shares of no par value
Bayer AG ordinary shares of no par value

New York Stock Exchange
New York Stock Exchange**

Securities registered or to be registered pursuant to Section 12(g) of the Act.

None

(Title of class)

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.

None

(Title of class)

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report.
As of December 31, 2006, 764,341,920 ordinary shares, of no par value, of Bayer AG were outstanding.

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.
Yes ☒ No ☐

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.
Yes ☐ No ☒

Note — Checking the box above will not relieve any registrant required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 from their obligations under those Sections.

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.
Yes ☒ No ☐ Not applicable ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check one):

☒ Large accelerated filer ☐ Accelerated filer ☐ Non-accelerated filer

Indicate by check mark which financial statement item the registrant has elected to follow:
Item 17 ☐ Item 18 ☒

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).
Yes ☐ No ☒

(APPLICABLE ONLY TO ISSUERS INVOLVED IN BANKRUPTCY PROCEEDINGS DURING THE PAST FIVE YEARS)

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Sections 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court.
Yes ☐ No ☐

* Bayer Corporation is also the name of a wholly-owned subsidiary of the registrant in the United States.
** Not for trading, but only in connection with the registration of American Depositary Shares.

Seed Treatment

The insecticidal active ingredient imidacloprid (major brand: *Gauche*®) is Crop Protection's best selling seed treatment product. It is marketed in over 70 countries for the treatment of early season pests and soil and leaf pests in key crops such as corn, cereals, cotton, sugar beet and soybeans.

Clothianidin (major brand: *Poncho*®) is an insecticidal active ingredient from the chemical class of neonicotinoids, jointly developed by Sumitomo Chemical Takeda Agro Co. Ltd. and Bayer CropScience AG. This active ingredient was developed primarily for the control of the major soil and early season pests in corn, sugar beet, cereals, canola and sunflower.

Tebuconazole (major brand: *Raxil*®) is a fungicide registered in many countries including France, Germany, the United Kingdom, the United States, Canada, Argentina and Australia as a seed treatment to control seed and soil-borne diseases in cereals.

Markets and Distribution

Europe has traditionally been our strongest market in Crop Protection, accounting for about 40 percent of our sales in this segment in 2006. Due to the fact that the major part of our business is realized in the northern hemisphere, the business is affected by the seasonality of the various crop and distribution cycles.

Crop Protection obtains a significant part of its raw materials from LANXESS, as well as from other non-Bayer companies, but also obtains part of its raw materials from within the Bayer Group. Some raw materials can be subject to price volatility caused by fluctuations in the price of crude oil, energy or transport costs.

Generally, we market our Crop Protection products through a two- or three-step distribution system, depending on local market conditions. Under this system, products are sold either to wholesalers or directly to retailers.

Our main competitors in the Crop Protection business are Syngenta, BASF, Dow AgroSciences, Monsanto and DuPont.

Research and Development

Crop Protection operates major research and development facilities on three continents: Monheim (headquarters) and Frankfurt, Germany; Lyon and Sophia Antipolis, France; Stilwell, Kansas and Raleigh, North Carolina; and Yuki City, Japan.

While research is concentrated in specialized sites, development activities range from central facilities to field testing stations across the globe, enabling product testing in the relevant geographical areas.

Crop Protection research and development is responsible for the identification and development of innovative, safe and economically sustainable solutions in crop protection. Research covers activities to identify new active ingredients that can be developed as insecticides, fungicides or herbicides and/or other areas in modern crop protection. In addition to classical chemistry, biology and biochemistry, modern technologies such as combinatorial chemistry, ultra-high-throughput-screening, genomics and bioinformatics play an important role in the identification of new lead structures. Collaborations with third parties supplement our internal research activities.

Once a compound is identified for development, its biological, environmental and toxicological profile, as well as its economic potential, is assessed. Suitable candidates are launched in the market after having obtained the required regulatory approvals.

We actively support our products through continuous life cycle management. This includes the development of new formulations for existing active ingredients and products, e.g., expanding their applicability to additional crops or improving handling and facilitating application of the product.

EXHIBIT 7

Sumitomo Chemical and Bayer CropScience to jointly develop new rice fungicide

Tokyo – (Jun 2, 2005) – Sumitomo Chemical Co., Ltd., Japan, and Bayer CropScience, Monheim have signed a co-development agreement for a new compound to combat rice blast. The fungicide BYF1047 was identified by Bayer CropScience. It is effective against the *Pyricularia* fungus which causes rice blast, the world's most economically significant disease in rice.

Sumitomo Chemical and Bayer CropScience are now jointly developing BYF 1047 intended for use primarily in Japan. Following the joint development, both Sumitomo Chemical and Bayer CropScience will hold global rights to market products containing the new active ingredient. The product is scheduled to be launched in Japan in 2010/2011, subject to regulatory approval.

"BYF1047 is highly effective against Rice Blast at low dose rate. The compound is specifically qualified for the rice growing conditions in Japan," says Dr. Bernward Garthoff, member of the board of management responsible for research and development at Bayer CropScience.

"Development of BYF1047 is a very important project for Sumitomo Chemical, whose already strong product range for rice in Japan will be further enriched by this product," says Mr. Yoshihiko Okamoto, executive officer responsible for the domestic crop protection division at Sumitomo Chemical.

Rice blast is a significant threat to the global food supply. The *Pyricularia* fungus infests the seeds and leaves of the rice plant, forming spindle-shaped lesions which cause the leaves to dry out, become discolored and brown. BYF1047 protects the rice plants against *Pyricularia* by stimulating their self-defense ability. Measures to combat rice blast are currently concentrated on a few substances, thus increasing the risk of the fungus developing resistance. Sumitomo Chemical and Bayer CropScience aim to develop this new active ingredient to provide rice farmers with a new option to combat rice blast.

Sumitomo Chemical is one of Japan's leading chemical companies, which offers a variety of products in, among others, the fields of petrochemicals, IT-related Chemicals, and life sciences, to the global market. Crop protection is one of the company's core businesses which generates annual sales of USD 1.2 billion, and markets products in more than 110 countries around the world. Sumitomo Chemical takes a comprehensive approach to the enhancement of agricultural production by providing crop protection chemicals, fertilizers, feed additives, and other products and technologies. Particularly in the Japanese market, Sumitomo Chemical is the leading company serving a wide range of markets including rice, vegetables, fruits, and home and garden, and is committed to the development and marketing of new products that meet users' needs. Further information is available at:
www.sumitomo-chem.co.jp

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www.bayercropscience.com

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